



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** American Business Communications, Inc.

**File:** B-245353

**Date:** December 17, 1991

Peter R. Healy, Esq., Svoboda and Mitts, P.C., for the protester.

Michelle Harrell, Esq., General Services Administration, for the agency.

Barbara Coles, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Agency determination to cancel solicitation for failure to obtain reasonable prices was properly based on comparison of protester's prices with government estimate and other similar contract prices.

### DECISION

14110-21  
American Business Communications, Inc. protests the cancellation of solicitation No. 4KCJS07, issued by the General Services Administration (GSA) as a competitive small disadvantaged business (SDB) set-aside (8(a)) for the purchase of telephone equipment and services in the GSA Central Zone States of North and South Carolina. American principally alleges that the agency's reason for cancellation of the solicitation (failure to obtain reasonable prices) was improperly based on GSA's comparison of its prices to the government estimate and other similar contract prices. American also argues that its initial high prices could have been reduced through negotiation.

We dismiss the protest because it fails to state a valid basis for protest. See 4 C.F.R. § 21.3(m) (1991).

The solicitation, issued on December 10, 1990, contemplated the award of a contract for telephone equipment and services including, but not limited to, installation, repair, maintenance and wiring for federal agencies within the states of North and South Carolina. The request for proposals advised offerors to submit technical proposals and prices. With regard to the price proposals, the solicitation provided that "[a]ll unit prices for items/services will be examined to determine price reasonableness."

GSA received two proposals in response to the solicitation. After evaluating the technical proposals, the technical evaluation panel determined that, of the two offerors, only American was found to be capable of being made acceptable.

While the technical evaluation panel was evaluating American's technical proposal, the contracting officer started evaluating American's price proposal. The contracting officer determined that based on a comparison of American's proposed prices to current contract prices under similar contracts and prices that were currently being received from other offerors on identical solicitations, American's proposed unit prices were unreasonable.<sup>1</sup> As a result of its determination that American's prices were unreasonably high and a determination that significant changes to the solicitation should be made, the contracting officer canceled the solicitation. American's protest to our Office followed.

As stated above, the protester objects to GSA's comparison of its prices to the government estimate and other contract prices since the other contracts may have had unique "problems." American also argues that its initial high prices were not final prices and as such they could have been modified if the agency had conducted negotiations prior to canceling the solicitation.

Federal Acquisition Regulation (FAR) § 19.806(b) provides that an 8(a) contract, sole-source or competitive, may not be awarded if the price of the contract results in a cost to the contracting agency which exceeds a fair market price (FMP). The FAR provision instructs contracting officers to consider commercial prices for similar services, available in-house cost estimates, cost or pricing data submitted by the Small Business Administration, and information obtained from any other government agency.<sup>2</sup> Given this direction, contracting agencies are expected to gather reliable, accurate, and current information upon which they may reasonably base an estimate of the prices at which the required services could be obtained from commercial sources. See, e.g., Logics, Inc., B-237412, Feb. 13, 1990, 90-1 CPD ¶ 189.

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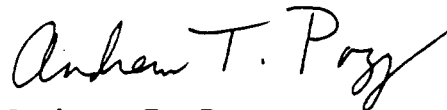
<sup>1</sup>As explained below, the agency also developed a government estimate based on these other contract prices that were used for comparison.

<sup>2</sup>FAR § 19.001 defines FMP as a price based on reasonable costs under normal "competitive conditions," and not on the lowest possible cost.

GSA states that it created a methodology to estimate unit prices and that the methodology was used to help the agency determine the fairness and reasonableness of proposed unit prices. Specifically, this methodology compared the proposed prices to current prices, other GSA contract prices and commercial prices. The methodology--resulting in the form of price comparison spreadsheets that are available to all GSA zones for use in similar price evaluations--determined the average price for each item of equipment or service and this average was then used as the government estimated price. GSA also compared American's prices with those proposed by a SDB offeror responding to an identical solicitation for the states of Alabama, Mississippi, and Florida. Contrary to the protester's suggestion, we believe the agency's methodology complied with the requirement to gather reliable, accurate, and current information upon which to estimate reasonable prices.

To the extent that the protester argues that the price unreasonableness determination was premature because it was based on prices submitted prior to best and final offers (BAFO), we know of no requirement to withhold a cancellation decision based on unreasonable prices until the receipt of BAFOs.

The protest is dismissed.



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Acting Assistant General Counsel